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| 10/789,581 | 02/26/2004 | Konstantin Othmer | 15814.16 | 3412 |

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| EXAMINER | |
|---|---|
| SING, SIMON P | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/789,581 | OTHMER, KONSTANTIN | |
| | Examiner | Art Unit | |
| | Simon Sing | 2614 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *15 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1 Claim 1 recites the limitation "the voice data" in line 3. There is insufficient antecedent basis for this limitation in the claim, because applicant recites “voice data” in line 2 and “voice data” in line 3.

1.2 Claim 1 recites the limitation "the device" in line 4. There is insufficient antecedent basis for this limitation in the claim, because applicant recites “a device” in line 2 and “a device” in line 3.

1.3 Claim 1 recites the limitation "the one or more senders" in line 11. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Cutaia et al. US 6,959,075.

1.1 Regarding claim 1, Cutaia discloses a method for replaying recorded voice data during a telephone conference session, and teaches:

receiving voice data at a local device 12 (which includes a conference bridge 16 and a replay module 18 in figure 1) during a communication (telephone conference) session, the voice data including first voice data from a user (of one of the telephones 12) and second voice data form a sender (from a remote telephone 12) (column 2, lines 27-39, 61-64; column 3, lines 11-17);

playing (relaying) the voice data being received at the device from the sender (column 3, lines 18-24);

buffering the voice data including the first and the second voice data in a buffer (replay module 18) of the device (column 3, lines 44-50);

receiving input from the user (recipient) to replay at least a portion of the buffered voice data fro the buffer during the communication session (column 3, lines 50-57) while continue to receive voice data from the sender (column 4, lines 19-21);

selectively replaying only the second voice data in the portion of the buffered voice data, wherein the first voice data of the user in the portion of the buffered voice data in not replayed (by pushing a skip to next speaker button 60) (column 6, lines 14-25, 65-67; column 7, lines 14-21).

1.2 Regarding claim 2, Cutaia teaches receiving voice data from a plurality of conferees (telephones 12) in figure 1.

1.3 Regarding claim 3, Cutaia teaches buffering a portion (five minutes) of a conference call (column 3, lines 50) which includes a first sender; and

buffering next sender without buffering silence gap (figure 3, buffered voice data 66; column 3, line 62 to column 4, line 7).

1.4 Regarding claim 4, Cutaia teaches a replay button 52 in figure 3 (column 6, lines 26-28; column 3, lines 44-50).

1.5 Regarding claim 5, Cutaia teaches replaying buffered voice data from a particular sender (column 7, lines 14-21).

1.6 Regarding claim 6, Cutaia teaches speed up playback (column 3, lines 60-61, 38-40).

1.7 Regarding claim 7, Cutaia teaches replaying voice data from a particular sender by pushing a skip-to-next speaker button 60 (column 6, lines 65-67; column 7, lines 14-21).

1.8 Regarding claim 8, Cutaia teaches replaying voice data from immediately preceding five minutes (column 3, lines 44-50).

1.9 Regarding claim 9, Cutaia teaches rejoining real-time conference (column 3, lines 38-41).

1.10 Regarding claim 10, Cutaia teaches replaying voice data from a particular sender by pushing a skip-to-next speaker button 60 (column 6, lines 65-67; column 7, lines 14-21).

1.11 Regarding claim 11, Cutaia teaches continuing replaying buffered data until rejoining real-time conference (column 3, lines 60-61, 38-41).

1.12 Regarding claim 14, Cutaia teaches a PNST (circuit switched) network 14 (column 2, lines 49-52).

1.13 Regarding claim 15, Cutaia teaches Internet (packet data network) 14 (column 2, lines 49-52).

1.14 Regarding claims 16 and 17, Cutaia teaches that network 14 can be any other networks, which inherently including wireless (RF) network, and the wireless inherently includes instant connect network (column 2, lines 49-52).

1.15 Regarding claim 18, as stated in claim 1, replaying only buffered voice data from a sender, not the user (recipient).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutaia et al. US 6,959,075.

Cutaia teaches buffering voice data in replay module 18, but is silent on deleting the buffered voice data. However, it is obvious that a user is able to delete the buffered voice data to provide room (memory space) for next telephone conference recording.

3. Claims 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. US 2002/0176546 in view of Goh US Patent No. 6,671,353 and further in view of Chaturvedi et al US 7,043,266.

3.1 Regarding claim 19, Dietz discloses a mobile phone 100 in figure 1. Dietz teaches:

receiving real-time voice data at the mobile phone;

playing the real-time voice data being received to a user at the mobile phone;

buffering received voice data in a memory;

receiving an input (the mobile phone 10 moves back to user's ear) from the user to replay at least a portion of the buffered voice data in memory; and

replaying the voice data buffered in memory while continuing to buffer received voice data until the playback catches up with real-time voice data received (para. 0006, 0016 and 0017).

Dietz recording a telephone conversation (para. 0016) fails to teach how to start and stop the recording. Dietz also fails to teach functions to alter how the buffered voice data are replayed including jumping to real-time data (stop recording and/or replaying) when the user start to talk and request a floor in network based instant connect call.

However, Goh discloses a mobile device in figure 1 for recording and playing voice data. the mobile device includes a start recording key, a stop recording key, a

start replay (reproduce) key, and a stop replay key back for controlling the recording and replaying functions (column 2, lines 10-20, 40-41, 61-62; column 3, lines 35-36, 55-57).

In addition, Chaturvedi discloses network based instant connect call in figure 1. Chaturvedi teaches a normal mode and a push to talk (PTT) mode (instant connect mode) for mobile stations 12 and 14 (column 5, lines 24-27; column 6, lines 28-64; column 8, lines 4-12).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Dietz's reference with the teachings of Goh and Chaturvedi so that the mobile phone would have comprised start/stop functions to alter the recording/replaying, and a PPT mode, because such a modification would have enabled a user to manually stop recording/replaying to jump to the real-time voice data when the user talked and requested a floor, and would have enabled a user to communicate in different communication modes using a single device.

3.2 Regarding claim 20, it is obvious that the buffered voice data (received before playback) are from a most recent sender (para. 0016 and 0017).

3.3 Regarding claim 21, Dietz teaches that voice data in memory is received prior playback (para. 0016 and 0017).

3.4 Regarding claim 22, the modified Dietz teaches variable playback speeds, which enables a user to speed up portion of the buffered data (para. 0018).

3.5 Regarding claim 23, as stated in claim 19, a user is able to stop the playback at anytime.

3.6 Regarding claim 24, Dietz teaches receiving voice data from a sender.

3.7 Regarding claim 25, examiner takes an office notice that it is obvious that a user of a recording device is able to manually delete or erase recorded voice data.

3.8 Regarding claim 26, it is obvious that voice data can be stored in memory (no deleting or erasing).

3.9 Regarding claim 27, as discussed in claim 19, the playback can be speed up (para. 0018).

3.10 Regarding claim 28, Dietz teaches removing period of silence (paragraph 0018).

4. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. US 2002/0176546 in view of Goh US Patent No. 6,671,353 and further in view of Chaturvedi et al US 7,043,266 and further in view of Harris et al. US 6,665,283.

The modified Dietz teaches a push-to-talk mode, but fails to teach requesting missed data packet(s) from a network device, such as a server.

However, Harris discloses packet-switched network for instant connect call in figure 1. Harris teaches a push to talk (PTT) communication mode (instant connect mode) for mobile stations 102 and 104 (column 2, lines 27-39; column 13, lines 12-30), and re-transmitting dropped packets which are then properly inserted in buffered data (column 1, line 48 to column 2, line 11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Dietz's reference with the teaching of Harris so that dropped data packets would have been retransmitted from a network device and properly inserted in the buffer, because such a modification would have ensured that proper voice data were received as taught by Harris.

5. Claims 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. US 2002/0176546 in view of Harris et al. US 6,665,283 and further in view of Schmidt et al. US 6,363,258.

5.1 Regarding claim 31, Dietz discloses a mobile phone 100 in figure 1. Dietz teaches:

playing the voice data being received to a user at the mobile phone;

buffering received voice data in a memory;

receiving an input (move back to the mobile phone) from the user to replay at least a portion of the buffered voice data in memory; and

replaying the voice data buffered in memory while continuing to buffer received voice data until the playback catches up with real-time voice data received (para. 0006, 0016 and 0017).

Dietz fails to teach using the mobile phone in network based instant connect call and replacing dropped voice data packet(s) without delaying playing the received voice data. Dietz also fails to teach displaying caller ID.

However, Harris discloses packet-switched network for instant connect call in figure 1. Harris teaches a push to talk (PTT) communication mode (instant connect mode) for mobile stations 102 and 104 (column 2, lines 27-39; column 13, lines 12-30), and re-transmitting dropped packets which are then properly inserted in buffered data (column 1, line 48 to column 2, line 11). Harris further teaches that dropped voice data packets can be retransmitted at the start of a conversation (PTT) to be inserted into the buffered voice data (column 2, lines 21-26).

In addition, Schmidt discloses a mobile phone 20 in figure 1. Schmidt teaches PTT mode and display caller ID (column 3, lines 24-35; column 4, lines 15-19; column 9, lines 46-54).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Dietz's reference with the teachings of Harris and Schmidt, so that the mobile phone would have comprised a PTT mode with caller ID, and dropped data packets would have been retransmitted, because such a modification would have enabled a user to communicate in different modes using a single device with call ID, and to ensured dropped voice data packets were retransmitted without causing a delay in playing the received voice data.

5.2 Regarding claim 32, in the modified Dietz reference, Harris teaches requesting retransmitting dropped voice data packets from a network device (column 1, lines 48-57).

5.3 Regarding claim 33, Dietz teaches buffering voice data from a sender at a memory address pointed by a pointer (paragraph 0016).

5.4 Regarding claim 34, it is obvious that if voice data packets are dropped continuously, the request for the dropped packets also continues.

5.5 Regarding claims 35 and 36, Dietz teaches speeding up playing the buffered voice data until catches real-time voice data (paragraph 0017).

6. Claims 37, 38, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. US 2002/0176546 in view of Davis US Patent No. 5,867,793 and further in view of Schmidt et al US Patent No. 5,363,258.

6.1 Regarding claim 37, Dietz discloses a mobile phone 100 in figure 1, comprising:

a buffer for receiving voice data at the mobile phone;

a module for playing the voice data being received to a user at the mobile phone;

a capacitance detector for replaying at least a portion of the buffered voice data in memory; and

replaying the voice data buffered in memory while continuing to buffer received voice data until the playback catches up with real-time voice data received (para. 0006, 0016, 0017 and 0018).

Dietz teach capacitance detector for replaying buffered voice data, but fails to teach a button to manually start the replaying. Dietz teaches speed-up the replaying, but fails to teach that a user with an option to alter the speed of replaying. Dietz also fails to teach using the mobile phone in network based instant connect call (push-to-talk mode, or PTT mode).

However, Davis discloses a mobile phone 10 in figures 1-3, and teaches a play button 30, and a fast forward button 34 (column 2, lines 31-35).

In addition, Schmidt discloses a mobile phone 20 in figure 1. Schmidt teaches PTT mode and display caller ID (column 3, lines 24-35; column 4, lines 15-19; column 9, lines 46-54).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Dietz's reference with the teachings of Davis and Schmidt, so that the mobile phone would have comprised a PTT mode with caller ID, a play button to start replaying buffered voice data in normal speed, and a fast forward button to speed up the replaying, because such a modification would have enabled a user to communicate in different modes using a single device with call ID.

6.2 Regarding claim 38, it is obvious that a recording device storing vice data from different senders sequentially.

6.3 Regarding claim 40, as discussed in claim 37, Dietz teaches continuing buffering received voice data while replaying buffered voice data.

6.4 Regarding claim 41, it is obvious that a control module deletes buffered voice data after a user entered a delete command.

7. Claims 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. US 2002/0176546 in view of Davis US Patent No. 5,867,793 and further in view of Schmidt et al US Patent No. 5,363,258 and further in view of Harris et al. US 6,665,283.

The modified Dietz reference teaches replaying back buffered voice data, but fails to teach replacing missing voice data packets.

However, Harris discloses packet-switched network for instant connect call in figure 1. Harris teaches a push to talk (PTT) communication mode (instant connect mode) for mobile stations 102 and 104 (column 2, lines 27-39; column 13, lines 12-30), and re-transmitting dropped packets which are then properly inserted in buffered data (column 1, line 48 to column 2, line 11). Harris further teaches that dropped voice data packets can be retransmitted at the start of a conversation (PTT) to be inserted into the buffered voice data (column 2, lines 21-26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Dietz's reference with the teaching of Harris so that dropped data packets would have been retransmitted, because such a modification would have ensured dropped voice data packets were retransmitted without causing a delay in playing the received voice data.

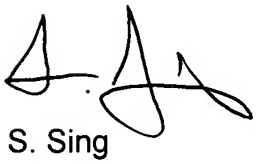
### *Response to Arguments*

8. Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

9. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Simon Sing whose telephone number is 571-272-7545. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Fan Tsang, can be reached at 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.



S. Sing

12/24/2007